

## DECISION DELEGATED TO HEAD OF PLANNING

**Application No:** H16-0462-26      **Applicant:** Maggie's Furry Friends  
**Proposal:** Use of property for dog boarding and daycare  
**Location:** 11 Laburnum Grove Spalding  
**Terminal Date:** 23rd July 2026

### Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

### Representations:

|           | Object | Support | No Obj. | Comments |
|-----------|--------|---------|---------|----------|
| RESIDENTS | 6      | 0       | 0       | 1        |

### CASE OFFICER ASSESSMENT

#### Proposal

The application seeks consent for a lawful development certificate for use of a residential property for dog boarding and daycare.

The application is submitted under Section 191 of the Town and Country Planning Act (1990) (as amended).

#### Site Description

The application site comprises land at 11 Laburnum Grove in Spalding. 11 Laburnum Grove is a semi-detached two-storey dwelling located to the west of Lanburnum Grove. The site includes a relatively long linear rear garden which is a similar length to the nearest dwellings to the south of the site. The site is within a residential area, being surrounded by dwellings on all sides.

The red line boundary shown within the submitted location plan excludes the dwelling within the site and only includes the garden and driveway area. This was queried with the applicant and they were given the opportunity to provide an amended plan that includes the dwelling; however, an amended plan was not subsequently provided.

#### Planning History

No planning applications have previously been submitted within the site.

## Consultation

National Planning Practice Guidance sets out the following in terms consultation requirements for an application for a lawful development certificate:

*"There is no statutory requirement to consult third parties including parish councils or neighbours. It may, however, be reasonable for a local planning authority to seek evidence from these sources, if there is good reason to believe they may possess relevant information about the content of a specific application. Views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application."*

Therefore, there is no statutory obligation for the local planning authority (LPA) to publicise an application for a certificate of lawful development; however, a site notice has been displayed next to the site for 21 days in the interests of transparency. In this instance, 9 representations have been received from members of the public; however, 2 of the responses are duplicates. The key matters set out within the responses are summarised below:

- Concerns with noise levels as dogs are left barking for hours.
- The noise has already impacted neighbours.
- The site is on a very narrow street and vehicles parked on the road can prevent or restrict the free movement in and out of the street for residents.
- Dogs are being dropped off in the morning from anywhere between 7am to 7.30 am.
- People are already dropping off dogs in the mornings and parking wherever they can to drop off the dogs.
- It is unclear how many dogs will be boarding at any one time.
- It is unclear if kennels are proposed for the dogs.
- It is unclear how waste will be disposed of.

## Key Planning Considerations

### Relevant Legislation

Section 191 of the Town and Country Planning Act (TCPA) (1990) (as amended) - sets out the following:

"(2) For the purposes of this Act uses and operations are lawful at any time if:

- (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
- (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force."

Section 191(4) further sets out that:

"(4) If, on an application under this section, the local planning authority is provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application."

National Planning Practice Guidance clarifies that it is the responsibility of the applicant to provide sufficient information to support the application (Paragraph 006 Reference ID: 17c-006-20140306). The evidence provided needs to be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability rather than beyond reasonable doubt.

Section 171B(3) of the TCPA further sets out the following:

"(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of:

- (a) in the case of a breach of planning control in England, ten years beginning with the date on

which the operations were substantially completed."

### Assessment of Evidence

In this case, no external alterations are proposed and as such, the application only relates to the proposed use of the site for dog boarding and dog daycare in addition to the existing residential use.

Development is defined as follows in Section 55 of the Town and Country Planning Act (1990)

*"Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land."*

The application seeks to confirm that full planning permission would not be required as the proposed use would not comprise a "material" change of use.

National Planning Practice Guidance sets out the following in relation to considering proposals for businesses that are proposed to be operated from home (014 Reference ID: 13-014-20230726):

*"Planning permission will not normally be required to home work or run a business from home, provided that home working or a business use is incidental to the use as a dwellinghouse. The local planning authority must consider whether any purposes to which it is put are reasonably incidental to its use as a dwellinghouse. Where such uses result in a material change of use of a dwellinghouse, planning permission will be required. Whether a material change of use has taken place, or will take place, is a matter of fact and degree and this will be determined on the individual merits of a case."*

*"When determining whether a material change of use has occurred, or will occur, a local planning authority must consider whether home working or a business has led, or will lead, to a notable change in the character of the property's use. Environmental impacts may be used to indicate a notable change of character of the property, for example: increase in traffic and parking, disturbance to neighbours caused by regular or the number or timing of, visitors or deliveries, abnormal noise or smells, or the need for any major structural changes or major renovations."*

Therefore, whether planning permission is required to run a business from home is a matter of fact and degree and largely depends on the intended business operations. It is established planning law that a material change of use will only have occurred if there has been a change in the definable character of the use of the site. Assessments need to be made on a case-by-case basis, and the change needs to be one of substance.

In this case, it is relevant to consider at least the following factors:

- Whether the premises would no longer be used mainly as a private residence;
- Whether the business would result in a marked rise in traffic or people calling;
- Whether the business disturb neighbours at unreasonable hours or create other forms of nuisance such as noise or odour.

Firstly, it is not considered that the dog boarding and daycare business would result in the premises no longer being used as a private residence. The dwelling would remain partly within residential use as the applicant intends to continue living within the site.

According to the submitted information the applicant considers that the use of the property would remain principally as a dwelling as the dog boarding and daycare activity is small-scale, home-based, and ancillary / incidental to the primary residential use of the dwelling.

According to the application form the site has been used for dog boarding since October 2025; however, the application is also accompanied by a summary of bookings which appear to date back to August 2025. It is unclear how many bookings there have been within the site in more recent months as the submitted information does not cover this period.

A maximum of 6 dogs are proposed to be accommodated within the site at any one time. This includes the applicant's existing 2 pet dogs. According to the applicant, bookings vary from daytime stays, overnight stays and longer stays covering multiple days and nights.

The applicant has provided a summary of bookings that took place between August to November 2025 to provide an indication of how the site might operate. This is summarised as follows:

- August 2025 - 3 bookings;
- September 2025 - 1 booking;
- October 2025 - 4 bookings; and
- November 2025 - 5 bookings.

Based on the above submitted information, the frequency of bookings varied from month to month during this period. Whilst the above referenced information provides an indication of how the use might have operated for 4 months in 2025, it is considered that bookings might increase as the business becomes more established. Therefore, whilst the summary of bookings has been taken into account, it is considered necessary to consider the maximum potential usage that could occur.

The proposed ongoing use of the site would not be restricted to certain days or times within the week as there are no fixed days on which boardings are proposed to take place. There could be up to 4 additional dogs within the site per day and night on each day of the week.

The supporting statement sets out that 'drop-offs and collections are staggered and limited'. Whilst the frequency and duration of dog boarding stays cannot be confirmed at this stage as this depends on customer demand, there could potentially be 4 customers visiting and leaving the site on a daily basis if customers chose to board their dogs for day bookings. Customers could also be dropping off dogs for overnight stays on a daily basis; however, it is considered more likely that overnight stays would take place at weekends when customers are more likely to go away on holiday and require dog care. Notwithstanding this, based on day visits alone there could be up to 8 vehicular trips to and from the site each day. This would not be an insignificant number of movements on a regular basis and it is considered that this would contribute towards changing the character of the residential cul-de-sac on which the site is located.

The applicant has set out within their supporting statement that "The activity does not generate levels of noise, traffic or activity that would materially differ from those typically associated with a residential dwelling occupied by dog owners". The dwelling in this case is semi-detached and there are dwellings located next to the site on all sides. Laburnum Grove is a cul-de-sac with no through traffic. The proposal could result in customers regularly travelling to and from the area who otherwise would have no reason to visit, with the comings and goings potentially causing a degree of disturbance to the surrounding residents.

Furthermore, it is unclear where visitors are expected to park whilst dropping off and collecting dogs. There appears to be room for one or two vehicles to park on the driveway within the site. The parking spaces have not been indicated on the site plan; however, this has been estimated based on a site visit that has been undertaken. It is unclear if both spaces are required by existing occupants and whether customers can use either of the spaces. Whilst customers might only be expected to need to park on Laburnum Grove for temporary periods whilst dropping off or collecting dogs, this nonetheless contributes to the factors that suggest the proposals would alter the character of the site.

Furthermore, as the operating hours are all day and all night on every day of the week, there is the potential for the use to cause a disturbance at unreasonable hours. There could be an increase in noise and odour as a result of an increased number of dogs being within the site for potentially long periods of time.

It is considered that the nature and intensity of the proposed use as described in the supporting statement, would go beyond a use incidental to the use of the dwellinghouse and would constitute a material change of use.

## **Additional Considerations**

### Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

### Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

### **Conclusion**

It is considered that the proposed use of the site to operate a dog boarding and daycare business would represent a material change of use and as such, full planning permission would be required for the proposals.

### **Recommendation**

Based on the assessment detailed above, it is recommended that the proposal should be deemed unlawful under delegated authority.